

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JM SMITH CORPORATION d/b/a, SMITH DRUG
COMPANY, on behalf of itself and all others similarly
situated,

Plaintiff,

v.

ACTAVIS, PLC,
FOREST LABORATORIES, LLC, MERZ GMBH &
CO. KGAA, MERZ PHARMA GMBH & CO. KGAA
and MERZ PHARMACEUTICALS GMBH

Defendants.

C.A. No. 15-cv-7488

NOTICE OF DEFENDANTS' MOTION TO DISMISS

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law dated December 22, 2015, the accompanying Declaration of Kristen O'Shaughnessy, and the exhibits attached thereto, Defendants Actavis, plc, Forest Laboratories, LLC, Merz GmbH & Co. KGaA, Merz Pharma GmbH & Co. KGaA and Merz Pharmaceuticals GmbH will move this Court, before the Honorable Colleen McMahon, United States District Judge, located at the United States Courthouse, 500 Pearl Street, Room 1640, at a date and time to be determined by the Court, for an Order dismissing the above-captioned Complaint with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that Defendants respectfully request that oral argument be heard on this Motion pursuant to Local Rule 6.1.

Dated: December 22, 2015

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'M. Toto', is written over a horizontal line.

Martin M. Toto

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Laboratories, LLC, Merz Pharmaceuticals
GmbH, Merz GmbH & Co. KGaA, and Merz
Pharma GmbH & Co. KGaA*